105TH CONGRESS 2d Session | HOUSE OF REPRESENTATIVES | REPORT 105–638

DISAPPROVING EXTENSION OF NONDISCRIMINATORY TREATMENT TO THE PRODUCTS OF THE PEOPLE'S REPUBLIC OF CHINA

JULY 20, 1998.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. ARCHER, from the Committee on Ways and Means, submitted the following

ADVERSE REPORT

together with

DISSENTING VIEWS

[To accompany H.J. Res. 121]

The Committee on Ways and Means, to whom was referred the joint resolution (H.J. Res. 121) disapproving the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of the People's Republic of China, having considered the same, report unfavorably thereon and recommend that the joint resolution do not pass.

I. INTRODUCTION

A. PURPOSE AND SUMMARY

H.J. Res. 121 would disapprove the extension of nondiscriminatory treatment (most-favored-nation or normal tariff treatment) to the products of the People's Republic of China.

B. BACKGROUND

Prior to 1951, the United States extended nondiscriminatory, or unconditional most-favored-nation (MFN) treatment, to all of its trading partners, in accordance with obligations undertaken when the United States joined the General Agreement on Tariffs and Trade (GATT) in 1948. However, the Trade Agreements Extension Act of 1951, directed the President to withdraw or suspend the

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MFN status of the Soviet Union and all countries under the domination of international communism. As implemented, this directive was applied to all then-existing communist countries except Yugoslavia. Poland's MFN status was restored by Presidential directive in 1960.

Title IV of the Trade Act of 1974, which includes the so-called "Jackson-Vanik amendment," represented a liberalization of the 1951 law. Title IV authorizes the extension of MFN, or normal, treatment to nonmarket economies which meet freedom of emigration requirements and conclude a commercial agreement with the United States. Title IV authorizes the President to waive the freedom-of-emigration requirements of that title, and to grant MFN status to a nonmarket economy country, if he determines that doing so will substantially promote the freedom-of-emigration objectives of that title.

MFN status was first granted to the People's Republic of China on February 1, 1980, and has been renewed annually since then on the basis of Presidential waivers. (A bilateral commercial agreement, as required by the Jackson-Vanik amendment, has remained in force during that time.) On June 3, 1998, the President formally transmitted to the Congress his recommendation to waive, once again, the 1974 Trade Act's freedom-of-emigration requirements and to thereby extend China's MFN status for an additional year, during the period of July 3, 1998, through July 2, 1999.

The President's waiver authority under Title IV expires at midnight on July 2 of each year. It may be extended on an annual basis upon a Presidential determination and report to Congress that such extension will substantially promote the freedom-of-emigration objectives of the 1974 Trade Act. The waiver authority continues in effect unless disapproved by the Congress—either generally or with respect to a specific country—within 60 calendar days after the expiration of the existing authority. Under Title IV amendments adopted as part of the Customs and Trade Act of 1990, disapproval takes the form of a joint resolution disapproving the extension of Presidential authority to waive the 1974 Trade Act's freedom-of-emigration requirements. Under the 1990 amendments, Congress can consider any veto message before the latter of the end of the 60-day period or within 15 legislative days. The disapproval resolution is highly privileged, thus generally guaranteeing a vote in the House if it is introduced.

If both chambers of Congress do not pass a resolution of disapproval within the 60 calendar days following the July 3, 1998 expiration of the existing waiver authority, China's MFN status is automatically renewed through July 2, 1999. House Joint Resolution 121 was introduced by Representative Solomon on June 4, 1998. The resolution provides for disapproval of extension of the waiver authority recommended by the President on June 3,1998 with respect to China for the period beginning July 3, 1998.

C. Legislative History

Committee action

House Joint Resolution 121 was introduced on June 4, 1998, by Representative Solomon, and was referred to the Committee on

Ways and Means. On June 25, 1998, the Committee ordered House Joint Resolution 121 reported adversely without amendment to the House by voice vote, with a quorum present.

Legislative hearing

The Subcommittee on Trade held a hearing June 17, 1998 on the question of renewing China's most-favored-nation trade status. At this hearing, Members of Congress, as well as representatives of the Administration and business and religious groups, expressed their views regarding U.S.-China trade relations.

II. Explanation of the Resolution

Present law

Title IV of the Trade Act of 1974, as amended by the Customs and Trade Act of 1990 (Public Law 101–382), sets forth three requirements relating to freedom of emigration which must be met, or waived by the President, in order for a nonmarket economy country to be granted MFN treatment. Title IV also requires that a bilateral commercial agreement that provides for nondiscriminatory, MFN status remain in force between the United States and the nonmarket economy country receiving MFN status. Title IV also sets forth minimum provisions that must be included in such an agreement.

An annual Presidential recommendation under section 402(d) for a 12-month extension of authority to waive the Jackson-Vanik freedom-of-emigration requirements—either generally, or for specific countries—may be disapproved through passage by Congress of a joint resolution of disapproval within 60 calendar days after the expiration of the previous waiver authority. Congress may override a Presidential veto within the latter of the end of the 60 calendar day period for initial passage or 15 legislative days.

Explanation of the resolution

House Joint Resolution 121 states that the Congress does not approve the extension of the waiver authority contained in section 402(c) of the Trade Act of 1974, recommended by the President to the Congress on June 3, 1998, with respect to the People's Republic of China.

Reasons for committee action

The Committee reports Congressman Solomon's disapproval resolution adversely, primarily because the Members, in general, support the Administration's policy of engagement with China. The Committee is convinced that non-discriminatory trade treatment is the cornerstone of a policy of engagement and increased trade, which enables the United States to influence the growth of democratic and market-oriented policies in China in a manner which will improve respect for fundamental human rights and lead eventually to political reform. The Committee, in general, recognizes that disapproving the President's recommendation for an extension of China's MFN status would permanently sacrifice U.S. leverage to bring about change in China, while at the same time harming U.S. exporters, workers and consumers.

Withdrawing MFN for China would also have a serious adverse effect on Hong Kong and Taiwan due to the high levels of trade and investment between Hong Kong and China, and between Taiwan and China. By severely disrupting trade in the region, terminating MFN would harm U.S. efforts to address the current financial crisis in Asia and risk prompting further currency devaluations. Finally, the majority of Members believe that revoking China's MFN status as of July 3 of this year is too blunt a sanction and would work against U.S. Government efforts to bring China into the global community of civilized nations. While the United States has many serious problems with China, the Committee believes they are best addressed through expanding the involvement of U.S. citizens in Chinese society and making full use of U.S. trade statutes where necessary.

III. VOTE OF THE COMMITTEE

In compliance with clause 2(l)(2)(B) of rule XI of the Rules of the House of Representatives, the following statements are made concerning the vote of the Committee on Ways and Means in its consideration of H.J. Res. 121.

MOTION TO REPORT THE BILL

H.J. Res. 121 was ordered reported adversely without amendment to the House by voice vote, with a quorum present.

IV. BUDGET EFFECTS

A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

In compliance with clause 7(a) of the rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of this resolution, House Joint Resolution 121 as reported: The Committee agrees with the estimate prepared by CBO which is included below.

B. STATEMENT REGARDING NEW BUDGET AUTHORITY AND TAX EXPENDITURES

In compliance with subdivision (c) of clause 2(l)(3) of rule XI of the Rules of the House of Representatives, the Committee states that enactment of H.J. Res 121 would increase customs duty receipts due to higher tariffs imposed on goods from China.

C. COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

In compliance with subdivision (c) of clause 2(l)(3) of rule XI of the Rules of the House of Representatives, requiring a cost estimate prepared by the Congressional Budget Office, the following report prepared by CBO is provided.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 25, 1998.

Hon. BILL ARCHER,
Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.J. Res. 121, a joint resolution disapproving the President's recommendation to extend most-favored-nation (MFN) status to the People's Republic of China, as adversely reported on June 25, 1998, by the Committee on Ways and Means. CBO estimates that disapproving the extension of MFN status to the People's Republic of China would increase receipts by $135 million in fiscal year 1998 and by $405 million in fiscal year 1999.

Under the Trade Act of 1974, MFN status may not be conferred on a country with a nonmarket economy if that country maintains restrictive emigration policies. Under present law, however, the President may waive this prohibition on an annual basis if he certifies that granting MFN status would promote freedom of emigration in that country. The People's Republic has received MFN status through presidential proclamation on an annual basis beginning in 1980. On June 3, 1998, President Clinton transmitted to Congress his intention to waive the emigration prohibition and extend MFN status to the People's Republic of China for an additional year, beginning July 3, 1998. H.J. Res. 121 would disapprove the President's recommendation to extend MFN treatment.

If the People's republic were denied MFN status, tariff rates on its exports to the U.S. would rise substantially. The higher tariffs on these would increase the prices faced by U.S. consumers for the goods imported from the People's Republic, reducing demand. Therefore, imports of goods from the People's Republic would be lower than they would be if MFN status were to be extended. CBO estimates that the increased tariff rates caused by the loss of MFN status would cause an overall increase in customs duty receipts measured relative to revenues generated under continued MFN status. Because imports from the People's Republic would decline substantially, customs duties collected on Chinese imports to the U.S. would fall, but it is likely that some of the decline in U.S. imports from the People's Republic would be made up by an increase in imports from other MFN countries. CBO estimates that the increase in revenue from this effect would outweigh the reduction in revenues from the reduced level of imports from the People's Republic. The budget effects of the bill are shown in the following table.

REVENUE EFFECTS OF H.J. RES. 121

[By fiscal year, in billions of dollars]

	1998	1999	2000	2001	2002
Projected revenues under current law	1,710.491	1,773.298	1,822.745	1,885.171	1,965,978
Proposed changes	0.135	0.405	0	0	0
Projected revenues under H.J. Res. 121	1,710.616	1,773.703	1,822.745	1,885.171	1,965.978

[1] Includes the revenue effects of P.L. 105–178 (H.R. 2400).

The proposed legislation contains no intergovernmental mandates as defined in Public Law 104–4 and would impose no direct costs on state, local, or tribal governments. The increased tariff rates on products from the People's Republic caused by the loss of MFN would impose a private-sector mandate on importers of Chinese products into the United States. The private-sector mandate would exceed $100 million in both fiscal years 1998 and 1999. Taxes would increase by $0.1 billion in 1998 and by $0.4 billion in 1999. In addition to these increased tariffs, firms would incur additional costs when they substitute goods from other MFN countries or domestic producers.

Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1998. CBO estimates that H.J. Res. 121 would affect receipts. Therefore, pay-as-you-go procedures would apply. They pay-as-you-go impact is summarized below.

PAY-AS-YOU-GO CONSIDERATION

[By fiscal year, in millions of dollars]

	1998	1999	2000
Changes in Outlays		Not Applicable	
Changes in Receipts	135	405	0

If you wish further details, please feel free to contact me or your staff may wish to contact Hester Grippando.

Sincerely,

JUNE E. O'NEILL, *Director.*

V. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to subdivision (A) of clause 2(l)(3) of rule XI of the Rules of the House of Representatives (relating to oversight findings), the Committee, based on public hearing testimony and information from the Administration, believes that revoking China's MFN status as of July 3, 1998 would be unwise and counterproductive.

B. SUMMARY OF FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

With respect to subdivision (D) of clause 2(l)(3) of rule XI of the Rules of the House of Representatives, no oversight findings or recommendations have been submitted to the Committee by the Committee on Government Reform and Oversight with respect to the subject matter contained in the resolution.

C. CONSTITUTIONAL AUTHORITY STATEMENT

With respect to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, relating to Constitutional Authority, the Committee states that the Committee's action in reporting the bill is derived from Article I of the Constitution, Section 8 ("The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and to provide for * * * the general Welfare of the United States * * *").

VI. DISSENTING VIEWS

> The People's Republic of China (PRC) is an authoritarian state in which the Chinese Communist Party (CCP) is the paramount source of power. At the national and regional levels, party members hold almost all top government, police, and military positions. Ultimate authority rests with members of the Politburo. Leaders stress the need to maintain stability and social order and are committed to perpetuating the rule of the CCP and its hierarchy. Citizens lack the freedom to express peacefully opposition to the party-led political system and the right to change their national leaders or form of government. * * *

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The Government continued to commit widespread and well-documented human rights abuses, in violation of internationally accepted norms stemming from the authorities' very limited tolerance of public dissent, fear of unrest, and the limited scope or inadequate implementation of laws protecting basic freedoms. The Constitution and laws provide for fundamental human rights, but they are often ignored in practice. Abuses included torture and mistreatment of prisoners, forced confessions, and arbitrary arrest, and lengthy incommunicado detention. Prison conditions at many facilities remained harsh. The Government continued tight restrictions on freedom of speech, the press, assembly, association, religion, privacy, and worker rights. Discrimination against women, minorities, and the disabled, violence against women, prostitution, trafficking in women and children, and the abuse of children remain problems. The Government continued to restrict tightly worker rights. Serious human rights abuses persisted in minority areas, including Tibet and Xinjiang, where tight controls on religion and other fundamental freedoms continued and, in some cases, intensified—U.S. Department of State China Country Report on Human Rights Practices for 1997.

For the reasons stated above, I believe we must lead international and efforts to promote respect for human rights and democratic principles in the People's Republic of China. Countries that respect the rights of their citizens and adopt open, democratic reforms make the best economic and political partners. In China, only respect for the basic principles of human rights will insure that the U.S. consumer is not financing oppressive practices within the People's Republic of China.

The United States has helped create a more prosperous, democratic and equitable world by leading past fights for freedom, democracy, and human rights. Trade sanctions succeeded in bringing change to the Former Soviet Union, South Africa, and other nations. American leadership can once again set the standard for international support for reform in China. We must take a serious stand demanding change in China. Change will begin with a vote to end Most Favored Nation trade status for China.

BEN CARDIN.

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